

IOWA PUBLIC INFORMATION BOARD
December 13, 2012
MINUTES

The Board met at 2 p.m. in the smaller conference room in the Governor's office at the Iowa Statehouse with the following members present: Robert Andeweg, Urbandale; Anthony Gaughan, West Des Moines; Andrew McKean, Anamosa; Gary Mohr, Bettendorf (via telephone); Bill Monroe, Johnston; Kathleen Richardson, Des Moines; Suzan Stewart, Sioux City (via telephone); Jo Martin, Spirit Lake (via telephone) and Peggy Weitzl, Carroll (via telephone). Others present included Larry Johnson, Deputy Legal Counsel to the Governor and Keith Luchtel, serving "of counsel" to the Board.

Votes Taken

- 1) On a motion by Andeweg seconded by Mohr, the agenda was approved.
- 2) On a motion by Andeweg, seconded by Gaughan, the minutes of the November 15 meeting were approved.
- 3) On a motion by McKean, seconded by Gaughan, the board amended then approved the recommendation of the Job Description Committee for the following executive director job description:

Title:

Iowa Public Information Board Executive Director

Qualifications:

---The Executive Director must...

...Be an attorney with at least five years experience admitted to practice law in the courts of this state in order to execute the board's authority and to have the ability to prosecute respondents in proceedings before the board and to represent the board in proceedings before a court.

... Have excellent inter-personal communication skills including writing, speaking, phone and computer skills.

...Have the ability to create budgets and financial reports for the board.

---The Executive Director should possess one or more of the following qualifications:

...Understand the legislative process;

...Have experience with or knowledge of entities representing government bodies impacted by Chapters 21 and/or 22;

...Have government experience;

...Have teaching or practical experience involving Chapter 21 and 22;

...Have an intimate knowledge of Chapters 21 and 22 of the Iowa Code;

...Have administrative hearing experience;

...Have litigation skills.

Duties:

In consultation with the Board, the Executive Director shall...

---Oversee the adoption of rules pursuant to chapter 17A calculated to implement, enforce, and interpret the requirements of chapters 21 and 22 and to implement any authority delegated to the board by this chapter.

---Issue, consistent with the requirements of section 17A.9, declaratory orders with the force of law determining the applicability of chapter 21 or 22 to specified fact situations

and issue informal advice to any person concerning the applicability of chapters 21 and 22.

---Receive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance or through mediation and settlement, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeding conducted according to the provisions of chapter 17A.

---Request and receive from a governmental body assistance and information as necessary in the performance of the board's duties.

---Examine a record of a government body that is the subject matter of a complaint, including any record that is confidential by law. Confidential records provided to the board by a government body shall continue to maintain their confidential status. The Executive Director and any board member or employee of the board is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the government body.

---Issue subpoenas enforceable in court for the purpose of investigating complaints and to facilitate the prosecution and conduct of contested cases before the board.

---Oversee the issuing of orders with the force of law, determining whether there has been a violation of chapter 21 or 22, requiring compliance with specified provisions of those chapters, imposing civil penalties equivalent to and to the same extent as those provided for in section 21.6 or 22.10, as applicable, on a respondent who has been found in violation of chapter 21 or 22, and imposing any other appropriate remedies calculated to declare, terminate, or remediate any violation of those chapters.

---Represent the board or appoint a designee to represent the board in judicial proceedings to enforce or defend the board's orders and rules through attorneys on its own staff, through the office of the attorney general, or through other attorneys retained by the board, at its option.

---Oversee the development and implementation of training opportunities for lawful custodians, governmental bodies and other persons subject to the requirements of chapters 21 and 22 and require, at the board's discretion, appropriate persons who have responsibilities in relation to chapters 21 and 22 to receive periodic training approved by the board.

---Oversee dissemination of information calculated to inform members of the public about the public's right to access government information in this state including procedures to facilitate this access and including information relating to the obligations of governmental bodies under chapter 21 and lawful custodians under chapter 22 and other laws dealing with this subject.

---Prepare and transmit to the governor and to the general assembly, at least annually, reports describing complaints received, board proceedings, investigations, hearings conducted, decisions rendered, and other work performed by the board.

---Make recommendations to the governor and the general assembly proposing legislation relating to public access to government information deemed desirable by the board in light of the policy of this state to provide as much public access as possible to government information as is consistent with the public interest.

---Hire and manage staff.

- Create job descriptions for all employees.
- Perform other duties as assigned by the board.

Action Agreed Upon

- 1) Monroe and Johnson will facilitate the advertising for an executive director. All applications will be public records.
- 2) A committee of Mohr, Stewart and Monroe will review all applications and present the board with a list of from three to five candidates.
- 3) The board will interview the candidates selected by the committee.
- 4) The board agreed that a policy should exist to define the relationships among board members, the executive director and the staff. Monroe will prepare a recommended policy for the January board meeting stating that the board, among other things, sets policy and hires an executive director to carry out the policies. The executive director, in turn, hires and oversees any staff members included in the board's budget. If any board member has any concerns about any staff member, he or she should tell the executive director. If any board member has any concerns about the executive director, he or she should tell the board president.
- 5) The board agreed that a policy should exist to define the duties among the executive director, the deputy director and members of the staff of the Attorney General when it comes to prosecuting contested cases. Monroe will prepare a recommended policy for the January meeting stating that whenever possible, the executive director or the deputy director should handle prosecutions in any contested cases coming before the board. Staff should seek and rely upon the consultation and advice of the Attorney General's staff. The Attorney General's staff would defend the board in court of necessary.
- 6) The next meeting date is Thursday, January 17 at 2 p.m. in the Robert D. Ray Conference Room.

Other Items Discussed

- 1) The board invited general comments from the public.
- 2) Monroe updated the board on the status of the board's organizational work to date and listed the tasks yet to be done. Tasks completed or underway include...
 - Developing a budget (Two meetings have been held with the Department of Management so far.)
 - Writing administrative rules and procedures (With the board discussion at the December meeting, it's anticipated that over 90 percent of this work will be done.)
 - Writing a job description for the executive director (The committee has met and made a recommendation to the board at the December meeting.)
 - Securing Case Management Software (The Iowa Ombudsman's Office has offered to provide a copy of its software to the board at no cost. The Ombudsman's Office will also provide free training for the staff.)
 - Writing an ethics and conflict of interest policy (Done as part of the approved administrative rules.)
 - Creating a website (The committee has provided guidance to the vendor to create the website.)
 - Visiting agencies that come under Chapters 21 and 22 (15 presentations have been made to date.)

- Yet to address by July1;
---Completing all unfinished business started in 2012;
---Develop a training program;
---More agency visits;
---Establishing an information dissemination policy & process;
---Writing a progress report for the Legislature and Governor;
---Establishing board goals and metrics to measure progress and
---Hiring an executive director.
- 3) Presentation reports were made:
---Iowa Utility Board (November 20 Monroe, Stewart and Luchtel)
---Iowa Association of Community College Trustees (December 7 Mohr, Luchtel and Monroe)
---Iowa Association of School Boards...Transparency Class and general session of school administrators (December 12 Monroe, Luchtel & Richardson)
- 4) Future presentations were discussed including:
---Board of Regents and Regents' Institutions (Monroe and Luchtel) TBD
---Iowa Broadcasters Association (Richardson, Monroe and Luchtel) At IBA's April 20 convention
---City attorneys (McKean, Monroe, Johnson and Luchtel) December 14
---Iowa Hospital Association (Stewart, Monroe and Luchtel) TBD
---Law enforcement organizations (Requests to police, sheriffs, Highway Patrol sent) ...Sheriff's Winter School, December 2013
- 5) Committee assignments were discussed.
---January 2013 Legislative/Governor Report Committee to meet later in the year (Martin, McKean, Monroe and Richardson)
---Website Committee (Richardson, Martin, Weitzel, Monroe & Luchtel) has met and will meet next when Iowa Interactive has a progress report to review.
---Job Description Committee (Mohr, Johnson and Monroe) has met and presented a recommendation to the board at the meeting.
---(Administrative Rules Committee (Luchtel, Andeweg, Johnson and Deputy Attorney General Julie Pottorff) has met and presented proposed rules related to complaint, investigation and resolution procedures at the meeting.
- 6) The Legislative Service Agency has recommended that corrective legislation be Introduced in the 2013 legislative session making corrective changes to Senate File 430, the legislation that created the Iowa Public Information Board. The board will review the legislation at a future meeting.

On a motion by Andeweg, seconded by Gaughan, the meeting was adjourned at 3:45 p.m.

Respectfully submitted
Bill Monroe
Board chairman